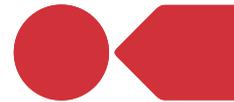


English



KONKURRANSE
TILSYNET
The Competition Authority



2013



2014



About The Norwegian Competition Authority

- Director of Competition Christine B. Meyer
- Established in 1994
- Approximately 100 employees
- Under The Ministry of Trade, Industry and Fisheries
- In 2013, the Authority received 900 cases, of which 391 cases concerned mergers and acquisitions and 45 cases concerned anti-competitive behaviour.

There are four types of cases the Authority deals with:

CARTELS

Instead of competing, some companies form cartels to maintain high prices. Illegal cooperation between companies harms competition and can be costly to society.

ABUSE OF DOMINANCE

Dominant firms can make it difficult for existing and potential competitors to operate in the markets, for example by engaging in predatory pricing or entering into exclusive agreements with major retailers.

CONTROL OF MERGERS

To prevent a reduction of competition, the Competition Authority may prohibit or impose conditions on mergers and acquisitions.

HEARINGS AND CALLING ATTENTION

The Authority regularly evaluate government schemes and regulations and identify anticompetitive effects.

Read more about the Norwegian Competition Authority at www.konkurransetilsynet.no/en



Director General
Christine B. Meyer.
Photo: Marit Hommedal.

More competition and focus on food markets

2013 has once again been a busy year for the Norwegian competition authority and as in 2012 a lot of attention has been given to the food industry. The year has also been marked by a number of large mergers with close collaboration with the European commission. On the policy side, the authority has taken steps towards soft law enforcement to resolve anticompetitive conduct. This soft law approach will also be facilitated by the introduction of commitments in the revised competition act to be implemented in 2014.

People at the front page

Christine B. Meyer
Anne Marthe Storetvedt
Rudi Wiers
Heid June Simonsen
Arild Oma

Tine Sæbø (KOFA)
Liv Berit Handeland
Elisabeth Steckmest
Eirik Myking Midtbø
Luis Pereira

Ingunn Gjersvik
Ida Grotle Frøyen (KOFA)
Andreas Tveito
Vegard Aandal-Nilsen
Fredrik Drønen

Lorna Fredriksen
Eivind Lillesveen

Early in 2012 the competition authority was informed about a potential agreement on purchasing and distribution of retail goods between the largest and the fourth largest retail chains in Norway, Norgesgruppen and Ica. In April the Authority chose to impose a temporary ban the agreement due to a risk of lasting and irreparable damage to competition. This is the first time the authority has temporarily banned an agreement. The authority was close to concluding its assessment of the agreement when the two remaining retail chains made public their joint purchasing agreement. However, their agreement will only come into effect if the competition authority decides not to object to the Norgesgruppen ICA agreement. The authority has promised the parties a decision by the end of February.

Another important event in 2013 was the proposal from a law commission to implement a code of conduct in the food industry. The Authority has questioned the need for such a code of conduct and is critical to the proposed use of fines for breaching quite vague and subjective sections of the proposed act. On a more positive note, the law commission has suggested that the parties are only breaching the law when the conduct is harmful to consumers.

The authority also warned the major retail food chain, Norgesgruppen, that it may be fined for implementing a takeover of part of ICA before receiving approval from the authorities. This is an important case because Norgesgruppen challenges the authority's merger control regime by splitting up the transaction and by arguing that the merger control does not include contractual agreements.

The first half of 2013 was also marked by Orkla's acquisition of Rieber & Søn. The merger was first filed to the European commission but the Commission referred the Norwegian part of the case to the NCA. The case was challenging because the theories of harm were related to conglomerate effects of the merger. Though the authority was worried for adverse effects of the merger on consumers, sufficient evidence was not found to block the merger. However, the authority did block two mergers at the first half year of 2013, one in the laundry sector and one in the media sector.

In addition to the Orkla Rieber merger; the Norwegian part of a merger in the health and fitness sector between Sats and Elixia has been transferred from the European Commission.

In the past year the authority has chosen to take steps towards soft law by conducting market investigations and through actively and sometimes publicly warning parties that are in risk of breaching the competition act.

One of the market studies that has been conducted in 2013 is a review on car warranty conditions. In this review the authority found a number of vague and misleading warranty conditions which can create uncertainty among consumers and lock them to the car manufacturers/importers. The authority has had a twofold aim in conducting this market investigation; to inform the consumers of their rights of a free choice of repair shop and to warn car manufacturers/importers about warranties that potentially are in conflict with the competition act. As result of this review, the majority of the car manufacturers/importers have changed their

warranty conditions to be in accordance with the competition law.

The authority also applied a soft law approach in reacting to a harmful practice of signaling in the banking sector. In Norway as in Europe as a whole, the government has imposed stricter capital claims on the banking sector. As a response to these claims a number of banks publicly warned that they would have to raise interest rates, and some also stated how much. As competition authority we saw this as a potential breach of competition law, but instead of starting a full-fledged investigation, the competition authority called on the major players and their federation and warned them about this potentially illegal practice. As a result the banks are now much less open about their plans to raise interest rates.

The step towards soft law will also be facilitated by the new measures given in the revised competition act. From January 2014 the authority may accept proposed commitments from parties to an anti-competitive agreement and in cases of abuse of dominance, and adopt commitment decisions. Hard core cartels are exempted from this new measure.

The other major revision to the act is the merger control where the merger thresholds are raised substantially from a combined turnover of 50 million to 1 billion NOK and from turnover of the smallest firm from 20 to 100 million NOK. However, the authority's powers to investigate potentially anti-competitive mergers are not affected by the revision. For the authority the new thresholds implies redistribution of resources towards more market surveillance. Moreover, the authority has chosen to



Legal Director Karin Stakkestad Laastad has played a key role in the implementation of the revised competition act. Photo: Helge Skodvin.

impose information obligations on some of the major Norwegian firms.

The authority is currently investigating a potential abuse of dominance by the largest Norwegian telecom corporation. In addition the authority has had a task force on identifying potential abuse cases and this work will result in new investigations to be started in 2014. Using a task force to identify potential cases has proven very useful and is an approach the authority intends to

use in the future to better balance between complaints and ex officio cases.

In 2013 Norway had a new government. The Norwegian competition authority has expressed concerns for the wave of regulation in a number of sectors as well as exemptions from the competition law. The authority has called for a review of anticompetitive regulations and a stronger prioritization of competition as a key tool to raise productivity in the Norwegian economy. Based

on the new government's augural address to the Norwegian parliament where the importance of competition is strongly emphasized, the competition authority is hopeful that competition will have fertile grounds to prosper in the years to come.

Christine B. Meyer
Christine B. Meyer
DIRECTOR GENERAL



The grocery sector

The grocery sector is one which has occupied a considerable share of the Authority's time in 2013. From the perspective of consumers and competition, the most important cases have been:

- Norgesgruppen and ICA - wish to collaborate on purchasing and wholesale operations. The Authority decided to block the agreement temporarily, and in February 2014 the Authority warned that the agreement between Ica and Norgesgruppen may be blocked
- Orkla's acquisition of Rieber was referred to the Norwegian Competition Authority by the European Commission. The Authority did not find grounds to intervene in the acquisition to intervene against the acquisition.
- The law commission on Power Relations in the Food Supply Chain delivered its report and proposals for new legislation on fair trading practices. The Competition Authority has, in its reply to the consultation request, not seen the need for a new code of conduct.
- The Competition Authority warned imposing a fine of NOK 25 million (about EUR 3 million) on Norgesgruppen for prematurely implementing a transaction subject to a duty to notify in connection with Norgesgruppen taking over the leases of 13 former Ica-Maxi premises.

Read more news on Konkurransetilsynet.no/en



Report: Your car - your choice of workshop

In autumn 2013 the Competition Authority issued the report, "Your car - your choice of auto repair shop." The report reveals that vague and misleading warranty terms create uncertainty among car owners. The Competition Authority has met with several players in the automotive industry and now sees a clear improvement in warranty practices.

If the car owner her- or himself pays for repairs and maintenance, she or he can safely select any government-approved workshop she wishes without invalidating her new car warranty. Warranties made conditional on the car owner having such work carried out within the authorised repair networks of the car manufactures may be caught by the Competition Act § 10, first paragraph, see also EEA Agreement Art. 53 (1). The Competition Authority wants car owners to be confident that they can use this option so that we enjoy more competition and affordable prices for auto repair services.

Read more at konkurransetilsynet.no/car-warranty



Blocked acquisition

The Competition Authority decided in 2013 to prohibit Retriever Norge AS' proposed acquisition of its competitor Innholdsutvikling AS. The reason was that the acquisition would lead to a significant restriction of competition in the market for media monitoring that includes press clippings from print newspapers.

An acquisition would have reduced the number of competing players in this market from three to two. The Authority believes that this would have weakened competition and thus lead to more expensive services for customers who want this type of media monitoring.



Prohibited merger between laundry firms

The Competition Authority decided in 2013 to prohibit the merger between Nor Tekstil and Sentralvaskeriene. The reason was that the merger would lead to competition in the laundry market being significantly restricted.

In Southern and Eastern Norway, the parties were clearly the largest players in the rental and cleaning of so-called flat cloth, i.e., linen, towels and the like, to industrial customers such as hotels and hospitals.

The Authority found that the merger would lead to higher prices and poorer service and quality in the rental and cleaning of textiles. Higher prices would have been, to some extent, passed on to consumers, which in this case are hotel and restaurant guests, as well as the public through publicly funded health care and municipal services.



Signalling from banks

In 2013, certain executives in the banking market announced planned rate hikes on television and radio and in newspapers. The Authority believes that such statements are detrimental to competition, and may also be a violation of competition law. The exchange of competitively sensitive information between competitors may harm competition in that market participants tacitly adapt to price information that is publicly communicated by their competitors.

The Competition Authority has been in dialogue with the sector about the necessity for each operator to determine prices entirely on their own. The Authority is now following closely the banks' statements about future prices and will continuously assess whether the statements are contrary to competition law.